

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

SUSAN H. MCHENRY,

Defendant.

CIVIL ACTION
NO. 16-05160

FILED

JAN 11 2017

LUCY V. CIRCIOTTI Clerk
By Date Clerk

ORDER

AND NOW, this 10th day of January 2017, upon consideration of Plaintiff's Motion for Service by Posting Property and Certified Mail, it is **ORDERED** that service be directed upon Defendant by way of posting a copy of the Summons and Complaint in Enforced Collections on the property of the last known address of Plaintiff and by mailing a copy of the Summons and Complaint in Enforced Collections by certified mail and regular mail to Defendant's last known home address.¹ Service shall be completed upon posting or upon mailing, whichever comes later.

¹ This action was brought to enforce collections given to Plaintiff and executed by Defendant. Plaintiff filed a Motion for Service pursuant to Federal Rule of Civil Procedure 4(e)(1) asking the Court to allow posted copies of the Summons and Complaint and mailed copies to Defendant's last known address.

Federal Rule of Civil Procedure 4(e)(1) states:

Serving an Individual Within a Judicial District of the United States. Unless federal law provides otherwise, an individual – other than a minor, an incompetent person, or a person whose waiver has been filed – may be served in a judicial district of the United States by:

- (1) Following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made

ENTERED

JAN 11 2017

BY THE COURT:

CLERK OF COURT


JOEL H. SLOMSKY, J.

Federal Rule of Civil Procedure 4(e)(1) (original emphasis omitted). Pennsylvania local rules provide that original process may be served:

- (1) By handing a copy to the defendant, or
- (2) By handing a copy
 - (i) at the residence of the defendant to an adult member of the family with whom he resides; but if no adult member of the family is found, then to an adult person in charge of such residence; or
 - (ii) at the residence of the defendant to the clerk or manager of the hotel, inn, apartment house, boarding house or any other place of lodging at which he resides; or
 - (iii) at any office or usual place of business of the defendant to his agent or to the person for the time being in charge thereof.

Pa. R.C.P. 402(a). Additionally, Rule 430(a) provides:

If service cannot be made under the applicable rule the plaintiff may move the court for a special order directing the method of service. The motion shall be accomplished by an affidavit stating the nature and extent of the investigation which has been made to determine the whereabouts of the defendant and the reasons why service cannot be made.

Pa.R.C.P. 430(a). This rule specifically applies to defendants who attempt to conceal their location or otherwise obstruct the service of process. See Civil Procedure Rules Committee Explanatory Comment to Pa.R.C.P. 400-41.

In this case, Plaintiff has made a good faith effort to locate Defendant and submitted an affidavit of Thomas I. Puleo, Esquire. Plaintiff hired a private process server, ran inquiries of postal authorities including inquiries pursuant to the Freedom of Information Act, 39 C.F.R. Part 265, and examined local telephone directories. (Doc. No. 2 at 2.) Plaintiff also pulled Defendant's current listed address from her credit history.

In addition, the process server attempted to serve Defendant at her last known address, which is 5357 Eadom St. Philadelphia, Pennsylvania 19137. At the time, the process server was informed by the current occupant that Defendant no longer lived there. (Doc. No. 2-3 at 2.)

Through all these efforts, it appears that Defendant's home address is still 5357 Eadom St. Philadelphia, Pennsylvania 19137. In view of all these efforts to serve Defendant and the applicable rules on service, the methods of service requested to be used here are appropriate and will be Ordered.